

Serial No.: 10/827,300

## REMARKS

### Status Summary

Claims 1-13 are pending in this application. Claims 1, 2, 4-9, 11 and 13 are rejected. Claims 3, 10 and 12 are objected to and have been indicated as being allowable if rewritten in independent format. Claims 1, 4, 7 and 10 have been amended as set forth above. Claims 14-24 have been previously canceled and are in related, divisional patent applications. New claims 25-35 have been added by this amendment. The specification has been amended as indicated to better clarify the wording of paragraph [0009].

### Claim Rejections - 35 U.S.C. § 112

Claims 4-9, and 11 presently stand rejected by the Examiner under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and particularly claim the subject matter which applicant regards as the invention. More specifically, the Examiner indicates that claim 4 and its dependent claims are unclear and indefinite because they include elements that have antecedent basis in claim 3 and not in claim 2. The Examiner has indicated in this regard that claim 4 and its dependent claims are for examination purposes treated as if they were dependent from claim 3. Applicant respectfully submits that claim 4 and all of its dependent claims all ultimately do depend from claim 3 as originally filed. As such, the rejection of claims 4-9 under 35 U.S.C. §112 appears to be mistaken, and applicant respectfully submits that this rejection should now be withdrawn.

Serial No.: 10/827,300

With respect to claim 11, the Examiner states that the recitation of “the plurality of shutters” is indefinite and unclear as to whether it should depend from claim 3 or claim 10. As indicated in the amendments set forth above, claim 11 has been amended to replace the phrase “each of the plurality of shutters” with the phrase “the first shutter, the second shutter, and the third shutter” as clearly set forth in claim 10 from which claim 11 depends. It is respectfully submitted therefore that the rejection of claim 11 under 35 U.S.C. §112, second paragraph, should now be removed.

Claims 7 stands objected to by the Examiner based upon an informality wherein the word “in” is missing. As indicated in the amendments set forth above, claim 7 has been amended to add the word “in” in line 3 of claim 7. As such, it is respectfully submitted that the rejection of claim 7 under 35 U.S.C. §112 should now be withdrawn.

#### Claim Rejection - 35 U.S.C. § 102

Claims 1 and 13 presently stand rejected by the Examiner 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,531,923 to De Lay (“De Lay”). The Examiner states that De Lay recites the claimed invention including a cover movably mounted within the housing in a plane parallel to the cutting plane for obstructing the discharge opening in a mulching mode and for not obstructing the discharge opening in a mowing mode. The Examiner specifically associates reference number 12 of De

Serial No.: 10/827,300

Lay with an opening, reference number **26** with a cover, and reference number **28** with a fin or rib. This position is respectfully traversed as discussed below.

De Lay teaches a combination mower and mulcher with attachments that can be affixed to the mower so that it can be utilized either as a standard mowing machine or as a combination mower and mulcher. The mower includes a rotating cutter, a plate over the cutter, a skirt attached to the plate and extending down and around the cutter to shield the cutter, and means mounted on the plate for rotating the cutter. The skirt defines a number of large openings adapted for allowing discharge of mulched vegetation, and a shield is attachable to the skirt for covering the openings. Plate **22** is attached by bolts across the discharge chute or escape gate **12**. When the mower is to be used to mulch leaves, an additional cutting blade **24** can be attached to shaft **16** along with cutting blade **14**. Plate **22** is removed and a band **26** is attached to skirt **6** by bolts **28**. Band **26** includes openings **30**. When the mower is to be used as a standard rotary mower without mulching at all, plate **22** is removed and a band **32** is attached inside skirt **6** by bolts **28** in order to cover openings **20** without covering escape gate **12**. As illustrated in the various figures of drawings and perhaps best illustrated in Figures 7 and 8, band **26** extends from the top of skirt **6** to the bottom of skirt **6** in a vertical direction and extends around and outside of the outer perimeter of the cutting blades in a horizontal direction. Band **26** is therefore positioned outside of and neither above or below the circle in which the rotary blade moves for cutting. Additionally, and as shown in the figures of drawings and described in De Lay, band **26** is only attached to skirt **6** by bolts **28**. As such,

Serial No.: 10/827,300

band **26** is not movable, and certainly not movable between a bagging position where the discharge opening is obstructed by the cover and a mulching position where the cover obstructs the discharge opening as recited in claim 1.

By the above amendments, claim 1 has been amended to more particularly define the present subject matter. More specifically, claim 1 has been amended to recite that the rotary mulching blade is coupled to the prime mover to rotate in a blade circle along a cutting plane about a rotation axis within the cutter housing. Claim 1 has also been amended to recite that the cover is movably mounted within the cutter housing above the blade circle in a plane parallel to the cutting plane. Finally, claim 1 has been amended to recite that the cover is movable between a full bagging position where the discharge opening is unobstructed by the cover and a full mulching position where the cover obstructs the discharge opening. These amendments have clear support in the application as originally filed in the specification and drawings. No new matter has been added.

There is no teaching or suggestion in De Lay of a cutter that is mounted within the cutter housing above a blade circle. As noted above, band **26** extends from the top of skirt **6** to the bottom of skirt **6** in a vertical direction and extends around and outside of the outer perimeter of the cutting blades in a horizontal direction. As such, band **26** is positioned outside of and not above the circle of blade rotation. Additionally and independently, there is no teaching or suggestion in De Lay of a cover being movable in its mounted position within the cutter housing between a bagging position where the discharge opening is unobstructed by the cover and a

Serial No.: 10/827,300

mulching position where the cover obstructs the discharge opening. As such, it is respectfully submitted that the rejection of claim 1 and dependent claim 13 under 35 U.S.C. §102(b) based upon De Lay should be withdrawn.

Claims 1, 2, and 13 presently stand rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,189,904 to Paker ("Paker"). In this regard, the Examiner states that Paker recites the claimed invention including a cover movably mounted with the housing in a plane parallel to the cutting plane for obstructing the discharge opening in a mulching mode and for not obstructing the discharge opening during a mowing mode. The Examiner specifically associates reference number **24** of Paker with an opening, reference number **30** with a cover, and reference number **34** with a fin or rib. This position is respectfully traversed as discussed below.

Paker discloses a leaf mulcher attachment for a connection to a conventional lawn mower wherein the attachment includes a plate with inwardly extending tines and wherein the plate defines openings and is adapted for positioning in front of the grass ejection chute of the mower. The plate can be connected to the housing of a lawnmower wherein the plate and tines avoid contact with the grass cutting blade within the lawnmower. As described and illustrated in the various figures of drawings of Paker, leaf mulching attachment plate **30** preferably is formed of planar sheet steel and defines circular openings **32**. A number of tines **34** extend from plate **30** inwardly and downwardly to overlie a portion of the openings **36**. The method by which plate **30** is attached to a lawnmower is described beginning at column 2, line 55, and the

Serial No.: 10/827,300

steps include draining the lawnmower of its gasoline, disconnecting the spark plug wire, placing the lawnmower on its side with the exit chute directly upwardly, and drilling apertures in the housing to enable plate 30 to be connected to the housing and located in front of the chute 24, as shown in Figure 1. In this matter, leaf mulching attachment plate 30 can block the ejection chute and includes tines for mulching leaves and holes for filtering and air draft purposes. The normal flow of leaves within the lawnmower can be effectively diverted in order for the blade to have more than one pass at the leaves. Tines 34 are described in Paker as operating to mulch the leaves as the leaves are forced past them by the lifting force and natural ejection force of the mower housing. Openings 32 and 36 are also described as providing an additional mulching effect as leaves would pass through them.

As noted above, claim 1 has been amended to more particularly define the present subject matter. More specifically, claim 1 has been amended to recite that the rotary mulching blade is coupled to the prime mover to rotate in a blade circle along a cutting plane about a rotation axis within the cutter housing. Claim 1 has also been amended to recite that the cover is movably mounted within the cutter housing above the blade circle in a plane parallel to the cutting plane. Finally, claim 1 has been amended to recite that the cover is movable between a full bagging position where the discharge opening is unobstructed by the cover and a full mulching position where the cover obstructs the discharge opening. It is apparent from the disclosure of Paker that plate 30 of Paker is not positioned above the blade circle and in a plane parallel to the cutting plane. Rather, plate 30 extends vertically

Serial No.: 10/827,300

between the top and bottom portions of the inside of the housing and horizontally in a curved plane. Additionally, Paker fails to disclose that plate 30 is moveable in its position between a bagging position where the discharge openings is unobstructed by the cover and a mulching position where the cover obstructs the discharge opening. It is clear by the description and drawings of Paker that plate 30 is fixably attached to housing 12 of the lawnmower by threaded fasteners 40. In light of the above, applicant respectfully submits that the rejection of claims 1, 2 and 13 under 35 U.S.C. §102(b) based upon Paker should be withdrawn.

#### New Claims

Claims 3, 10, and 12 have been indicated as being allowable if rewritten in independent format. Also, claims 4-9 and 11 have been indicated as being allowable if rewritten in independent format and amended to overcome the rejections under 35 U.S.C. § 112. As noted above, the rejections of claims 4-9 under 35 U.S.C. § 112 are considered mistaken, and the rejection of claim 11 under 35 U.S.C. § 112 has been overcome.

In light of the above, new claims 25-34 have been added and reflect the subject matter of claims 3-12 rewritten in independent format. As such, it is respectfully submitted that new claims 25-34 should now be allowable.

In addition to the above new claims, new claim 35 has been added. Claim 35 is directed to the convertible lawnmower according to the present subject matter and recites that the lawnmower comprises:

Serial No.: 10/827,300

a cutter housing having a discharge opening;  
an engine mount centrally positioned on the cutter housing;  
a prime mover supported on the engine mount;  
a rotary mulching blade coupled to the prime mover to rotate in a cutting plane about a rotation axis within the cutter housing;  
a cover mounted within the cutter housing in a plane parallel to the cutting plane, the cover being movable between a full bagging position where the discharge opening is unobstructed by the cover and a full mulching position where the cover obstructs the discharge opening; and  
the cover comprising a plurality of shutters extending parallel to the cutting plane and slidable laterally relative to one another.

There is no teaching or suggestion in the cited references of a convertible lawnmower as recited in new claim 35 including a rotary mulching blade coupled to the prime mover to rotate in a cutting plane about a rotation axis within the cutter housing, a cover mounted within the cutter housing in a plane parallel to the cutting plane where the cover is movable between a full bagging position where the discharge opening is unobstructed by the cover and a full mulching position where the cover obstructs the discharge opening, and where the cover comprises a plurality of shutters extending parallel to the cutting plane and slidable laterally relative to one another. It is respectfully submitted therefore that new claim 35 should be allowable.



Serial No.: 10/827,300

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

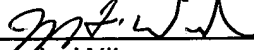
DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON & TAYLOR, P.A.

Date: February 1, 2005

By:   
Jeffrey L. Wilson  
Registration No. 36,058

JLW/alb/gwc

Customer No: 25297

1449/21/2 DIV